**UNITED STATES OF AMERICA**
**BEFORE THE FEDERAL TRADE COMMISSION**

**COMMISSIONERS:** **Andrew N. Ferguson, Chairman**
**Mark R. Meador**

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| **In the Matter of** | ) | |
| **AUROBINDO PHARMA Limited,** | ) | |
| **a limited company;** | ) | **DECISION AND ORDER** |
| **AUROBINDO PHARMA USA INC,** | ) | **Docket No. C-** |
| **a corporation;** | ) | |
| **and** | ) | |
| **LANNETT COMPANY, INC.,** | ) | |
| **a corporation.** | ) | |

## DECISION

The Federal Trade Commission initiated an investigation of the proposed acquisition by Aurobindo Pharma Ltd, through Aurobindo Pharma USA, Inc. ("AP USA") of Lannett Company, Inc. ("Lannett") (collectively "Respondents"). The Commission's Bureau of Competition prepared and furnished to Respondents the Draft Complaint, which it proposed to present to the Commission for its consideration. If issued by the Commission, the Draft Complaint would charge Respondents with violations of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45 (collectively "Acts").

Respondents and the Bureau of Competition executed an Agreement Containing Consent Orders ("Consent Agreement") containing (1) an admission by Respondents of all the jurisdictional facts set forth in the Draft Complaint; (2) a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in the Draft Complaint, or that the facts as alleged in the Draft Complaint, other than jurisdictional facts, are true; (3) waivers and other provisions as required by the Commission's Rules; and (4) a proposed Decision and Order and Order to Maintain Assets.

The Commission considered the matter and determined that it had reason to believe that Respondents have violated the said Acts, and that a complaint should issue stating its charges in that respect. The Commission accepted the Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments; at the same time, it issued and served its Complaint and Order to Maintain Assets. The Commission duly considered any comments received from interested persons pursuant to Commission Rule 2.34, 16 C.F.R. § 2.34. Now, in further conformity with the procedure described in Rule 2.34, the Commission makes the following jurisdictional findings, and issues the following Decision and Order ("Order"):

1. Respondent Aurobindo Pharma Limited is a limited company organized, existing, and doing business under and by virtue of the laws of India with its executive offices and principal place of business located at Galaxy, Floors: 22-24, Plot No. 1, Survey No. 83/1, Hyderabad Knowledge City, Raidurg Panmaktha, Ranga Reddy District, Hyderabad – 500032, India.

2. Respondent Aurobindo Pharma USA, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its executive offices and principal place of business located at 279 Princeton-Hightstown Road, East Windsor, New Jersey 08520.

3. Respondent Lannett Company, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its executive offices and principal place of business located at 1150 Northbrook Drive, Suite 155, Trevose, Pennsylvania 19053.

4. The Commission has jurisdiction over the subject matter of this proceeding and over the Respondents, and the proceeding is in the public interest.

## ORDER

### I. Definitions

**IT IS ORDERED** that, as used in the Order, the following definitions shall apply:

A. "AP USA" means Aurobindo Pharma USA, Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by Aurobindo Pharma USA, Inc., and the respective directors, officers, general partners, employees, agents, representatives, successors, and assigns of each.

B. "Aurobindo" means Aurobindo Pharma Limited, its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by Aurobindo Pharma Limited, and the respective directors, officers, general partners, employees, agents, representatives, successors, and assigns of each.

C. "Lannett" means Lannett Company, Inc., its directors, officers, employees, agents, representatives, successors, and assigns; and the joint ventures, subsidiaries, partnerships, divisions, groups, and affiliates controlled by Lannett Company, Inc., and the respective directors, officers, general partners, employees, agents, representatives, successors, and assigns of each.

D. "Quagen" means Quagen Pharmaceuticals, LLC, a limited liability company organized, existing, and doing business under, and by virtue of, the laws of the State of New Jersey with its registered offices located at 11 Patton Drive, West Caldwell, New Jersey 07006.

E. "Commission" means the Federal Trade Commission.

F. "Respondents" means Aurobindo, AP USA, and Lannett.

G. "Acquirer(s)" means:

1. Quagen; or

2. Any other Person that the Commission approves to acquire Divestiture Assets pursuant to this Order.

H. "Acquisition" means the proposed acquisition described in the agreement titled Membership Interest Purchase Agreement, July 30, 2025 as amended.

I. "Acquisition Date" means the date the Respondents consummate the Acquisition.

J. "Agency(ies)" means any government regulatory authority or authorities in the world responsible for granting approval(s), clearance(s), qualification(s), license(s), or permit(s) for any aspect of the research, Development, manufacture, marketing, distribution, or sale of a Product. The term "Agency" includes the FDA.

K. "Business Information" means all written information, wherever located or stored, relating to or used in a Divestiture Product Business, including documents, graphic materials, and data and information in electronic format. Business Information includes records and information relating to research and development (including copies of Product Development Reports), manufacturing, process technology, engineering, product formulations, production, sales, marketing (including Product Marketing Materials), logistics, advertising, personnel, accounting, business strategy, information technology systems, customers, customer purchasing histories, customer preferences, delivery histories, delivery routing information, suppliers and all other aspects of the Divestiture Product Business. For clarity, Business Information includes any Respondent's rights and control over information and material provided by that Respondent to any other Person. Business Information includes Confidential Business Information.

L. "cGMP" means current Good Manufacturing Practice as set forth in the United States Federal Food, Drug, and Cosmetic Act, as amended, and includes all rules and regulations promulgated by the FDA thereunder.

M. "Confidential Business Information" means all Business Information that is not in the public domain.

N. "Customer" means any Person that is either a direct purchaser or who negotiates price on behalf of a direct purchaser (*e.g.*, group purchasing organization) of any Divestiture Product from a Respondent or the Acquirer.

O. "Development" means all research related to a Product, and all studies of the safety or efficacy of a Product, including: discovery or identification of a new chemical entity, test method development; toxicology; bioequivalency; bioavailability; formulation; process development; manufacturing scale-up; development-stage manufacturing; quality assurance/quality control development; stability testing; statistical analysis and report writing; conducting studies of the safety or efficacy of a Product in animals or humans for the purpose of obtaining any and all approvals, licenses, registrations or authorizations from any Agency necessary for the manufacture, use, storage, import, export, transport, promotion, marketing, labeling, and sale of a Product (including any government price or reimbursement approvals). "Develop" means to engage in Development.

P. "Direct Cost" means a cost not to exceed the cost of labor, material, travel, and other expenditures to the extent the costs are directly incurred to provide the relevant assistance or service. "Direct Cost" to the Acquirer for its use of any of a Respondent's employees shall not exceed then-current average hourly wage rate for such employee.

Q. "Divestiture Agreements" mean:

1. Amended and Restated Asset Purchase Agreement by and between Aurobindo Pharma USA, Inc. and Quagen Pharmaceuticals, LLC, dated May 1, 2026; and all amendments, exhibits, attachments, agreements to the above-referenced agreement; and
2. Any other agreement between a Respondent(s) and the Acquirer (or between a Divestiture Trustee and the Acquirer that has been approved by the Commission to accomplish the requirements of this Order).

R. "Divestiture Assets" mean Respondents' equitable and legal right, title, and interests in and to all tangible and intangible assets that are not Excluded Assets, wherever located, relating to a Divestiture Product Business, including the following:

1. All Product Approvals;
2. All FDA Authorizations;
3. All Product Development Reports;
4. All Product Intellectual Property;
5. At the option of the Acquirer, Product Manufacturing Equipment;
6. All technological, scientific, chemical, biological, pharmacological, toxicological, regulatory materials and information, including studies of the safety, efficacy, stability, bioequivalency, bioavailability, and toxicology of a Product;
7. All website(s), domain names, and social media sites related exclusively to the Divestiture Product and the content thereon related exclusively to the Divestiture Product, and the content related exclusively to the Divestiture Product that is displayed

on any website that is not dedicated exclusively to the Divestiture Product;

8. At the option of the Acquirer, Product Contracts;

9. All Business Information;

10. At the option of the Acquirer, all inventory and all ingredients, materials, or components used in the manufacture of the specified Divestiture Product in existence as of the Divestiture Date including, the active pharmaceutical ingredient(s), excipient(s), raw materials, packaging materials, work-in-process, and finished goods related to that Divestiture Product; and

11. At the option of the Acquirer, the right to fill any or all unfilled Customer purchase orders for the specified Divestiture Product as of the Divestiture Date.

S. "Divestiture Date" means the date on which Respondents consummate the divestiture of the Divestiture Assets to the Acquirer as required by this Order.

T. "Divestiture Products" means the:

1. Mycophenolate Oral Suspension Products;

2. Nicotinic Acid ER Products;

3. Pilocarpine Products; and

4. Rabeprazole Sodium DR Products.

U. "Divestiture Product Business" means the research, Development, manufacture, commercialization, distribution, marketing, advertisement, importation, and sale related to a Divestiture Product.

V. "Divestiture Trustee" means any Person appointed by the Commission to serve as a divestiture trustee pursuant to the Orders.

W. "Employee Information" means the following, for each Relevant Employee, as and to the extent permitted by law:

1. Name, job title or position, date of hire, and effective service date;

2. Specific description of the employee's responsibilities;

3. Base salary or current wages;

4. Most recent bonus paid, aggregate annual compensation for the relevant Respondent's last fiscal year, and current target or guaranteed bonus, if any;

5. Written performance reviews for the past three years, if any;

6. Employment status (*i.e.,* active or on leave or disability; full-time or part-time);

7. All other material terms and conditions of employment in regard to such employee that are not otherwise generally available to similarly situated employees; and

8. At the option of the Acquirer, copies of all employee benefit plans summary.

X. "Excluded Assets" mean:

1. Any real estate and the buildings and other permanent structures located on such real estate;
2. Corporate names or corporate trade dress of a Respondent or the related corporate logos thereof; or the corporate names or corporate trade dress of any other corporations or companies owned or controlled by a Respondent or the related corporate logos thereof; or general registered images or symbols by which a Respondent can be identified or defined;
3. The portion of any Business Information that contains information about any of a Respondent's business other than a Divestiture Product Business, in those cases in which the redaction does not impair the usefulness of the information related to the Divestiture Product Business;
4. Any original document that a Respondent has a legal, contractual, or fiduciary obligation to retain the original; *provided, however,* that Respondents shall provide copies of the document to the Acquirer and shall provide that Acquirer access to the original document if copies are insufficient for regulatory or evidentiary purposes;
5. Any tax asset relating to (a) the Divestiture Assets for pre-Divestiture Date tax periods or (b) any tax liability that any Respondent is responsible for arising out of the divestiture of the Divestiture Assets;
6. All accounts receivable, notes receivable, rebates receivable and other miscellaneous receivables of any Respondent that are related to the Divestiture Product Business and arising out of the operation of the Divestiture Product Business prior to the Divestiture Date;
7. All cash, cash equivalents, credit cards and bank accounts of any Respondent; and
8. Any records or documents reflecting attorney-client, work product or similar privilege of any Respondent or otherwise relating to the Divestiture Assets as a result of legal counsel representing any Respondent in connection with the divestiture of the Divestiture Assets pursuant to this Order or the Divestiture Agreements.

Y. "FDA" means the United States Food and Drug Administration.

Z. "FDA Authorization(s)" means all of the following: "New Drug Application" ("NDA"), "Abbreviated New Drug Application" ("ANDA"), "Supplemental New Drug Application" ("SNDA"), or "Marketing Authorization Application" ("MAA"), the applications for a Product filed or to be filed with the FDA pursuant to 21 C.F.R. Part 314 et seq., and all supplements, amendments, and revisions thereto, any preparatory work, registration dossier, drafts and data necessary for the preparation thereof, and all correspondence between the holder and the FDA related thereto. "FDA Authorization" also includes an "Investigational New Drug Application" ("INDA") filed or to be filed with the FDA pursuant to 21 C.F.R. Part 312, and all supplements, amendments, and revisions thereto, any preparatory work, registration dossier, drafts and data necessary for the preparation thereof, and all correspondence between the holder and the FDA related thereto. "FDA Authorization" also includes any Biologic License Application ("BLA") filed or to be filed with the FDA pursuant to 21 C.F.R. 601.2, et seq., and Section 351 of

the Public Health Service Act, and any NDA deemed to be a BLA by the FDA, and all supplements, amendments, revisions thereto, any preparatory work, drafts and data necessary for the preparation thereof, and all correspondence between the Respondents and the FDA or other government regulatory authority relative thereto.

AA. "Licensed Intellectual Property" means (a) all Product Manufacturing Technology that is used (but not exclusively, predominantly, or primarily used) in the manufacture of a Divestiture Product, and (b) copyrights used (but not exclusively, predominantly, or primarily used), to commercialize, distribute, market, advertise, or sell any Divestiture Product as of the applicable Divestiture Date.

BB. "Mycophenolate Oral Suspension Products" mean the Products in Development or authorized for marketing or sale in the United States pursuant to ANDA No. 214525, and any supplements, amendments, or revisions to this ANDA, and any other Products that are or were in Development or Developed by Respondent Lannett that are orally administered suspension and contain, as the active pharmaceutical ingredient, mycophenolate at a 200mg/mL strength.

CC. "Monitor" means any Person appointed by the Commission to serve as a monitor pursuant to the Orders.

DD. "NDC Number(s)" means the National Drug Code number, including both the labeler code assigned by the FDA and the additional numbers assigned by the labeler as a product code and package size code for a specific Product.

EE. "Nicotinic Acid ER Products" mean the Products in Development or authorized for marketing or sale in the United States pursuant to ANDA No. 203899, and any supplements, amendments, or revisions to this ANDA, and any other Products in Development or Developed by Respondent Lannett that are extended release tablets, and contain, as the active pharmaceutical ingredient, nicotinic acid at the 1000mg and 500mg strengths.

FF. "Order to Maintain Assets" means the Order to Maintain Assets incorporated into and made a part of the Consent Agreement.

GG. "Orders" means this Decision and Order and the Order to Maintain Assets.

HH. "Person" means any individual, partnership, joint venture, firm, corporation, association, trust, unincorporated organization, or other business or government entity, and any subsidiaries, divisions, groups, or affiliates thereof.

II. "Pilocarpine Products" means the Products in Development or authorized for marketing or sale in the United States pursuant to ANDA No. 212377, and any supplements, amendments, or revisions to this ANDA, and any other Products in Development or Developed by Respondent AP USA that are tablets, and contain, as the active pharmaceutical ingredient, pilocarpine at the 7.5mg and 5mg strengths.

JJ. "Product(s)" means any pharmaceutical, biological, or genetic composition containing any formulation or dosage of a compound referenced as its pharmaceutically, biologically, or genetically active ingredient, or that is the subject of an FDA

Authorization.

KK. "Product Approval(s)" means any approvals, registrations, permits, licenses, consents, authorizations, and other regulatory approvals, and pending applications and requests therefor, required by applicable Agencies, related to the research, Development, manufacture, distribution, finishing, packaging, marketing, sale, storage, or transport of a Product, and includes, without limitation, all approvals, registrations, licenses, or authorizations granted in connection with any FDA Authorization related to that Product.

LL. "Product Contracts" means all contracts, agreements, mutual understandings, arrangements, or commitments related to the Divestiture Product Business, including those:

1. Pursuant to which any third party, including a Customer, purchases, or has the option to purchase, a Product from a Respondent or negotiates the purchase price on behalf of another Customer;
2. Pursuant to which a Respondent had, or has as of the Divestiture Date, the ability to independently purchase the active pharmaceutical ingredient(s) or other necessary ingredient(s) or component(s), or had planned to purchase the active pharmaceutical ingredient(s) or other necessary ingredient(s) or component(s), from any third party for use in connection with the manufacture of a Product;
3. Relating to any study of the safety or efficacy of a Product;
4. With universities or other research institutions for the use of a Product in scientific research;
5. For the marketing of a Product or educational matters relating solely to the Products;
6. Pursuant to which a third party manufactures or plans to manufacture a Product as a finished dosage form on behalf of a Respondent;
7. Pursuant to which a third party provides or plans to provide any part of the manufacturing process, including, without limitation, the finish or packaging of a Product on behalf of a Respondent;
8. Pursuant to which a third party licenses any Product Intellectual Property or Product Manufacturing Technology related to a Product to a Respondent;
9. Pursuant to which a third party is licensed by a Respondent to use any of the Product Intellectual Property or Product Manufacturing Technology;
10. Constituting confidentiality agreements involving a Product;
11. Involving any royalty, licensing, covenant not to sue, or similar arrangement related to a Product;
12. Pursuant to which a third party provides any specialized services necessary to the research, Development, manufacture, or distribution of a Product to a Respondent including, consultation arrangements; and
13. Pursuant to which any third party collaborates with a Respondent in the performance of

research, Development, marketing, distribution, or selling of a Product.

MM. "Product Development Reports" means information related to the Development of a Product, including:

1. Pharmacokinetic study reports;
2. Bioavailability study reports;
3. Bioequivalence study reports;
4. All correspondence, submissions, notifications, communications, registrations, or other filings made to, received from, or otherwise conducted with the FDA relating to the FDA Authorization(s);
5. Annual and periodic reports related to the above-described FDA Authorization(s), including any safety update reports;
6. FDA approved labeling or other Agency-approved labeling;
7. Currently used or planned product package inserts (including historical change of controls summaries);
8. FDA approved patient circulars;
9. Adverse event reports, adverse experience information, and descriptions of material events and matters concerning safety or lack of efficacy;
10. Summaries of complaints from physicians or other health care providers;
11. Summaries of complaints from ultimate users of the Product;
12. Summaries of complaints from Customers;
13. Product recall reports filed with the FDA or any other Agency, and all reports, studies, and other documents related to such recalls;
14. Investigation reports and other documents related to any out of specification results for any impurities or defects found in any Product;
15. Reports from any Person (e.g., any consultant or outside contractor) engaged to investigate or perform testing for the purposes of resolving any Product or process issues, including, without limitation, identification and sources of impurities or defects;
16. Reports from vendors of the component(s), active pharmaceutical ingredient(s), excipient(s), packaging component(s), and detergent(s) used to produce any Product that relate to the specifications, degradation, chemical interactions, testing, and historical trends of the production of any Product;
17. Analytical methods development records;
18. Manufacturing batch or lot records;
19. Stability testing records;
20. Change in control history; and

21. Executed validation and qualification protocols and reports.

NN. "Product Intellectual Property" means intellectual property of any kind (other than Licensed Intellectual Property), that is owned, licensed, held, or controlled by a Respondent as of the Divestiture Date, including patents, patent applications, trademarks, service marks, copyrights, trade dress, commercial names, internet web sites, internet domain names, inventions, discoveries, know-how, trade secrets, and proprietary information.

OO. "Product Manufacturing Equipment" means equipment that is being used, or has been used to manufacture a Divestiture Product.

PP. "Product Manufacturing Technology" means all technology, trade secrets, know-how, formulas, and proprietary information (whether patented, patentable, or otherwise) related to the manufacture of a Product, including the following: all product specifications, processes, analytical methods, product designs, plans, ideas, concepts, manufacturing, engineering, and other manuals and drawings, standard operating procedures, flow diagrams, chemical, safety, quality assurance, quality control, research records, clinical data, compositions, annual product reviews, regulatory communications, control history, current and historical information associated with the conformance of any Product Approvals, conformance with any Agency requirements, and cGMP compliance, labeling and all other information related to the manufacturing process, and supplier lists.

QQ. "Product Marketing Materials" means all marketing materials used specifically in the marketing or sale of the specified Divestiture Product in the United States as of the Divestiture Date that are owned or controlled by a Respondent, including, without limitation, all advertising materials, training materials, product data, mailing lists, sales materials (*e.g.*, detailing reports, vendor lists, sales data), marketing information (*e.g.*, competitor information, research data, market intelligence reports, statistical programs (if any) used for marketing and sales research), Customer information (including Customer net purchase information to be provided on the basis of dollars and units for each month, quarter or year), sales forecasting models, educational materials, advertising and display materials, speaker lists, promotional and marketing materials, website content, artwork for the production of packaging components, television masters, and other similar materials related to the specified Divestiture Product.

RR. "Rabeprazole Sodium DR Products" means the Products in Development or authorized for marketing or sale in the United States pursuant to ANDA No. 205761, and any supplements, amendments, or revisions to this ANDA, and any other Products in Development or Developed by Respondent AP USA that are delayed release tablets, and contain, as the active pharmaceutical ingredient, rabeprazole sodium at the 20mg strength.

SS. "Relevant Employees" means all full-time employees, part-time employees, or contract employees, who were employed by or under contract with Respondents at any time during the 90 days preceding the Acquisition Date whose duties relate or were related to the research, development, sale, marketing, or manufacture of any of the Divestiture Products and Businesses.

TT. "Retained Product(s)" means any Product(s) other than a Divestiture Product that is manufactured, in Development, marketed, sold, owned, controlled, or licensed by a Respondent anywhere in the world on or before the Acquisition Date and that has not been discontinued or permanently withdrawn from the market.

UU. "Supply Cost" means the actual cost of materials, ingredients, packaging, direct labor, and direct overhead excluding any allocation or absorption of costs for excess or idle capacity, and excluding any intracompany transfer profits plus the actual cost of shipping and transportation in cases in which those costs are incurred by a Respondent.

VV. "Technology Transfer Standards" mean requirements and standards sufficient to ensure that the information and assets required to be transferred and delivered are delivered in an organized, comprehensive, complete, useful, timely (*i.e.*, ensuring no unreasonable delays in transmission), and meaningful manner. Such standards and requirements shall include, as related to the specified Divestiture Product(s), *inter alia*:

1. Designating employees or other Persons working on behalf of a Respondent knowledgeable about the Product Manufacturing Technology who will be responsible for communicating directly with the Acquirer, and the Monitor, for the purpose of effecting such delivery;
2. Preparing technology transfer protocols and transfer acceptance criteria for both the processes and analytical methods related to the Product that are acceptable to the Acquirer;
3. Preparing and implementing a detailed technological transfer plan that contains, *inter alia*, the transfer of all relevant information, all appropriate documentation, all other materials, and projected time lines for the delivery of all such Product Manufacturing Technology to the Acquirer;
4. For any part of the manufacturing process that is performed by a Respondent, permitting employees of the Acquirer to visit the Respondent's facility where that process occurs for the purposes of evaluating and learning that process or discussing the process with employees of the Respondent (including, without limitation, use of equipment and components, manufacturing steps, time constraints for completion of steps, and methods to ensure batch or lot consistency); and
5. Providing, in a timely manner, assistance and advice to enable the Acquirer to:
    a. Manufacture the Product in the quality and quantities achieved by a Respondent prior to the Acquisition Date;
    b. Obtain any Product Approvals necessary for the receiving Person to manufacture the Product for the Acquirer in a manner that allows that Acquirer to distribute, market, and sell the Product in commercial quantities and to meet all Agency-approved specifications for the Product; and
    c. Receive, integrate, and use all Product Manufacturing Technology used in, and all Product Intellectual Property that is related to, the manufacture of the

Product.

WW. "Therapeutic Equivalent" means a drug product that is classified by the FDA as being therapeutically equivalent to another drug product or that otherwise meets the FDA's criteria for such classification.

XX. "United States" means the United States of America, and its territories, districts, commonwealths, and possessions.

## II. Divestitures

**IT IS FURTHER ORDERED** that:

A. No later than 10 days after the Acquisition Date, Respondents shall, absolutely and in good faith, divest the Divestiture Assets and grant a perpetual, non-exclusive, fully paid up, fully transferable, and royalty-free license to use the related Licensed Intellectual Property in the related Divestiture Product Business to Quagen.

*Provided, however*, that, if within 12 months after issuing this Order, the Commission determines, in consultation with the Acquirer and a Monitor, the Acquirer needs one or more Excluded Assets to operate any of the Divestiture Product Businesses in a manner that achieves the purposes of this Order, Respondents shall divest or license (as applicable) absolutely and in good faith, the needed Excluded Assets to the Acquirer.

B. If Respondents have divested any of the Divestiture Assets prior to the date this Order becomes final, and if, at the time the Commission determines to make this Order final, the Commission notifies Respondents that:

1. The named Acquirer is not an acceptable purchaser of the Divestiture Assets, then Respondents shall rescind the divestiture to that Acquirer within 5 days of notification, and shall divest the relevant Divestiture Assets no later than 180 days from the date this Order is issued, absolutely and in good faith, at no minimum price, to a Person that receives the prior approval of the Commission and in a manner that receives the prior approval of the Commission; or

2. The manner in which the divestiture to the Acquirer was accomplished is not acceptable, the Commission may direct Respondents, or appoint a Divestiture Trustee, to modify the manner of divestiture of the relevant Divestiture Assets as the Commission may determine is necessary to satisfy the requirements of this Order.

C. Prior to the Divestiture Date, Respondents shall provide the Acquirer with the opportunity to review Product Contracts related to each of the Divestiture Products so that the Acquirer can determine whether to assume each Product Contract;

*Provided, however*, that in cases in which any Product Contract also relates to a Retained Product the Respondent shall, at the option of that Acquirer, assign or otherwise make available to that Acquirer all such rights under the contract or agreement as are related to the specified Divestiture Product.

D. Prior to the Divestiture Date, Respondents shall secure all approvals, consents,

ratifications, waivers, or other authorizations from third parties that are necessary to permit Respondents to divest the Divestiture Assets and to grant or assign rights to the Divestiture Products to the Acquirer, and to permit that Acquirer to continue in the related Divestiture Product Business in the United States without interruption or impairment.

E. As related to the Product Manufacturing Technology and any ingredient, material, or component used in the manufacture of a Divestiture Product, Respondents shall not enforce any agreement against a third party or the Acquirer to the extent that such agreement may limit or otherwise impair the ability of that Acquirer to use or to acquire from the third party a license or other right to the Product Manufacturing Technology or any ingredient, material, or component used in the manufacture of a Divestiture Product. Such agreements include agreements that might limit the ability of a third party to disclose Confidential Business Information related to such Product Manufacturing Technology to the Acquirer. No later than 10 days after the Divestiture Date, Respondents shall grant a release to each third party that is subject to any such agreement that allows the third party to provide the Product Manufacturing Technology or any ingredient, material, or component used in the manufacture of the Divestiture Product to the Acquirer. Within 5 days of the execution of each such release, Respondents shall provide a copy of the release to the Acquirer;

*Provided, however*, Respondents may satisfy this requirement by certifying that the Acquirer has executed all such agreements directly with each of the relevant third parties.

F. Respondents shall transfer the Product Manufacturing Technology related to the Divestiture Products to the Acquirer, in a manner consistent with the Technology Transfer Standards. Respondents shall bear all costs related to these transfers.

G. No later than 10 days after the Divestiture Date, Respondents shall designate employees of Respondents knowledgeable about the marketing, distribution, warehousing, and sale of each of the Divestiture Products to assist the Acquirer to transfer and integrate the related Divestiture Product Business.

H. No later than 10 days after the Divestiture Date, Respondents shall provide the following to the Acquirer:

1. A list of any finished batch or lot of each Divestiture Product that any Respondent, any manufacturer for a Respondent, or regulatory Agency determined to be out-of-specification at any time during the three-year period immediately preceding the Divestiture Date, and, for each such batch or lot: (a) a detailed description of the known deficiencies or defects (*e.g.*, impurity content, incorrect levels of the active pharmaceutical ingredient, stability failure); (b) the corrective actions taken to remediate any cGMP deficiencies in that Divestiture Product; and (c) to the extent known by any Respondent, the employees (whether current or former) responsible for taking such corrective actions;

2. A list by stock-keeping unit by Customer that contains the current net price per unit as packaged for sale (*i.e.*, the price net of all customer-level discounts, rebates, or

promotions) for each Divestiture Product for each order sold to that Customer during the two-year period prior to the Divestiture Date;

3. A list of the inventory levels (weeks of supply) of each Divestiture Product in the possession of each Customer to the extent known or available to any Respondent, as of the date prior to and closest to the Divestiture Date as is available;

4. A list of any pending reorder dates for each Divestiture Product by Customer as of the Divestiture Date to the extent known by any Respondent;

5. A list of all of the NDC Numbers related to each Divestiture Product, and rights, to the extent permitted by law, to control, prohibit, or otherwise limit the use, including the use in Customer cross-referencing, of such NDC numbers by the Respondents, unless that Divestiture Product has not been marketed or sold in the United States prior to the Divestiture Date; and

6. The quantity and delivery terms in all unfilled Customer purchase orders for the relevant Divestiture Product as of the Divestiture Date.

I. Respondents shall not join, file, prosecute, or maintain any suit, in law or equity, against the Acquirer under any patent that was pending or issued on or before the Acquisition Date if such suit would limit or impair the Acquirer's freedom to research and Develop, or manufacture anywhere in the world the Divestiture Product(s), or to distribute, market, sell, or offer for sale within the United States any such Divestiture Product.

J. Upon reasonable written request from the Acquirer, the relevant Respondent shall provide, in a timely manner, assistance of knowledgeable employees of that Respondent (*i.e.*, employees of that Respondent that were involved in the Development of the Divestiture Products) to assist that Acquirer to defend against, respond to, or otherwise participate in any litigation brought by a third party related to the Product Intellectual Property for the Divestiture Products acquired by that Acquirer from a Respondent. A Respondent shall make its employees available to that Acquirer for the fee provided in the relevant Divestiture Agreement, or if no fee is provided, at no greater than Direct Cost.

K. For any patent infringement suit that is filed or to be filed within the United States that is (x) filed by, or brought against, a Respondent prior to the Divestiture Date related to any Divestiture Product or (y) any potential patent infringement suit that a Respondent has prepared, or is preparing, to bring or defend against as of the Divestiture Date that is related to any Divestiture Product, that Respondent shall:

1. Cooperate with the Acquirer and provide any and all necessary technical and legal assistance, documentation, and witnesses from that Respondent in connection with obtaining resolution of such patent infringement suit;

2. Waive conflicts of interest, if any, to allow that Respondent's outside legal counsel to represent the Acquirer in any such patent infringement suit; and

3. Permit the transfer to the Acquirer of all of the litigation files and any related attorney work product in the possession of that Respondent's outside counsel related to such

patent infringement suit.

## III. Divestiture Agreements

**IT IS FURTHER ORDERED** that:

A. The Divestiture Agreements shall be incorporated by reference into this Order and made a part hereof, and any failure by Respondents to comply with the terms of the Divestiture Agreements shall constitute a violation of this Order; *provided, however*, that the Divestiture Agreements shall not limit, or be construed to limit, the terms of this Order. To the extent any provision in the Divestiture Agreements varies from or conflicts with any provision in this Order such that Respondents cannot fully comply with both, Respondents shall comply with this Order.

B. Respondents shall not modify or amend any of the terms of any Divestiture Agreement without the prior approval of the Commission, except as otherwise provided in Rule 2.41(f)(5) of the Commission's Rules of Practice and Procedure, 16 C.F.R. § 2.41(f)(5).

## IV. Transition Services and Manufacturing by Respondents

**IT IS FURTHER ORDERED** that:

A. At the request of the Acquirer, in a timely manner, at no greater than Direct Cost or at such cost as provided in a Divestiture Agreement, Respondents shall provide transition services sufficient to enable the Acquirer to operate the Divestiture Product Businesses in substantially the same manner that Respondents have operated that Business prior to the Acquisition Date.

B. Upon reasonable written notice and request from the Acquirer, Respondents shall manufacture, deliver and supply, or cause to be manufactured, delivered, and supplied, to the Acquirer, in a timely manner and under reasonable terms and conditions, the Acquirer's requested supply of each of the Divestiture Products and any of the active pharmaceutical ingredients used in the Divestiture Products that are made by a Respondent, as applicable, hereinafter "Supplied Products." The requested supply of Supplied Products shall be provided at no greater than Supply Cost or at such cost as provided in a Divestiture Agreement.

C. The Respondents shall make representations and warranties to the Acquirer that the Supplied Products meet the relevant Agency-approved specifications and, with the consent of the Acquirer, shall amend any agreement between the Respondents and the Acquirer that is related to the quality controls of a Divestiture Product to address any necessary changes to the agreement in order to comply with relevant Agency regulations or recommendations.

D. The Respondents shall agree to indemnify, defend, and hold the Acquirer harmless from any and all suits, claims, actions, demands, liabilities, expenses, or losses alleged to result from the failure of the Supplied Products to meet cGMP, but the Respondents may make this obligation contingent upon the Acquirer giving the Respondents prompt written

notice of such claim and cooperating fully in the defense of such claim;

*Provided, however*, that the Respondents may reserve the right to control the defense of any such claim, including the right to settle the claim, so long as such settlement is consistent with the Respondents' responsibilities to supply the Supplied Products in the manner required by this Order;

*Provided further, however,* that this obligation shall not require the Respondents to be liable for any negligent act or omission of the Acquirer or for any representations and warranties, express or implied, made by the Acquirer that exceed the representations and warranties made by the Respondents to the Acquirer in a Divestiture Agreement.

E. The Respondents shall agree to hold harmless and indemnify the Acquirer for any liabilities, loss of profits, or consequential damages resulting from the failure of the Respondents to deliver the Supplied Products to the Acquirer in a timely manner unless (1) Respondents can demonstrate that the failure was beyond the control of Respondents and in no part the result of negligence or willful misconduct by Respondents, and (2) Respondents are able to cure the supply failure no later than 30 days after the receipt of notice from that Acquirer of a supply failure.

F. The Respondents shall give priority to supplying the Acquirer over the supplying of Products for any Respondent's own use or sale.

G. During the term of any agreement for a Respondent to supply the Supplied Products, upon written request of the Acquirer or a Monitor, the Respondent shall make available to the Acquirer and Monitor all records generated or created after the Divestiture Date that relate directly to the manufacture of the applicable Supplied Products.

H. The Respondents shall provide the Acquirer with the actual costs incurred or the price paid for active ingredients, components, and excipients the Respondents use to manufacture the applicable Supplied Products.

I. During the term of any agreement for a Respondent to supply the Supplied Products, Respondents shall take all actions as are reasonably necessary to ensure an uninterrupted supply of each of the Supplied Products.

J. Respondents shall not be entitled to terminate any agreement to supply the Supplied Products due to (x) a breach by the Acquirer of a Divestiture Agreement, or (y) the Acquirer filing a petition in bankruptcy, or entering into an agreement with its creditors, or applying for or consenting to appointment of a receiver or trustee, or making an assignment for the benefit of creditors, or becoming subject to involuntary proceedings under any bankruptcy or insolvency law;

*Provided, however*, that this Paragraph IV.J shall not prohibit a Respondent from seeking compensatory damages from the Acquirer for that Acquirer's breach of its payment obligations to the Respondent under the agreement.

K. The Respondents shall permit the Acquirer to terminate the agreement for the supply of the Supplied Products on a product-by-product basis, at any time, upon commercially

reasonable notice, and without cost or penalty (other than costs or penalties due by the Respondent to third parties pursuant to the termination of such agreement, which may be the responsibility of that Acquirer).

L. In the event that that a Respondent becomes (x) unable to supply or produce a Supplied Product from the facility that has been supplying the Acquirer, and (y) any Respondent has a different facility that is listed on the FDA Authorization for that Supplied Product and is still suitable for use to manufacture the Supplied Product, or any Respondent has a facility that manufactures the Therapeutic Equivalent of such Supplied Product, then such Respondent shall, at the option of the supplied Acquirer, provide a supply of either the Therapeutic Equivalent or the Supplied Product from the other facility under the same terms and conditions as contained in the Divestiture Agreement to supply.

M. For the Rabeprazole Sodium DR Products,

1. Respondents shall give priority to supplying the active pharmaceutical ingredient to the Acquirer over the supplying of that active pharmaceutical ingredient for any Respondent's own use or sale; and

2. At the Acquirer's option, Respondents shall bear the costs to qualify and obtain FDA regulatory approval to change the source of the active pharmaceutical ingredient(s). *Provided, however*, Respondents are responsible for the costs to qualify and obtain FDA regulatory approval for only one change in the source of the active pharmaceutical ingredient.

## V. Asset Maintenance

**IT IS FURTHER ORDERED** that, until the Respondents have physically transferred the Divestiture Assets to the Acquirer pursuant to Section II, Respondents shall operate and maintain the Divestiture Assets and the respective Divestiture Product Businesses in the ordinary course of business consistent with past practices. Included in these obligations, Respondents shall:

A. Take all actions necessary to maintain the full economic viability, marketability, and competitiveness of the Divestiture Product Businesses, to minimize the risk of loss of competitive potential of the Divestiture Product Businesses, to operate the Divestiture Product Businesses in a manner consistent with applicable laws and regulations, and to prevent the destruction, removal, wasting, or deterioration of any of the Divestiture Assets, except for ordinary wear and tear.

B. Not sell, transfer, encumber, or otherwise impair such Divestiture Assets, or terminate any of the operations of the Divestiture Product Businesses, other than in the ordinary course of business consistent with past practice or as prescribed in the Orders.

C. Make all payments required to be paid under any contract or lease when due, and pay all liabilities and satisfy all obligations associated with the Divestiture Product Businesses.

D. Provide the Divestiture Product Businesses with sufficient working capital to operate at least at current rates of operation, to meet all capital calls, to perform routine or necessary

maintenance, to repair or replace facilities and equipment, and to carry on, at least at their scheduled pace, all capital projects, business plans, promotional plans, capital expenditure plans, research and development plans, and commercial activities for the Divestiture Product Businesses.

E. Use best efforts to preserve the existing relationships and goodwill with suppliers, customers, employees, vendors, distributors, landlords, licensors, licensees, government entities, brokers, contractors, and others having business relations with the Divestiture Product Businesses.

F. Maintain the working conditions, staffing levels, and a work force of equivalent size, training, and expertise associated with the Divestiture Product Businesses, including:

1. Filling vacancies that occur in the regular and ordinary course of business consistent with past practice; and

2. Not transferring any employees from the Divestiture Product Businesses to another of Respondents' businesses.

G. Maintain and preserve the Business Information of the Divestiture Product Businesses.

H. Provide the resources necessary for the Divestiture Product Businesses to respond to competition, prevent diminution in sales, and maintain its competitive strength.

I. Continue providing customary levels of support services to the Divestiture Product Businesses.

J. Maintain all licenses, permits, approvals, authorizations, or certifications used in the operation of the Divestiture Product Businesses, and operate the Divestiture Product Businesses in accordance and compliance with all regulatory obligations and requirements.

K. Maintain the levels of production, quality, pricing, service, or customer support typically associated with the Divestiture Product Businesses.

*Provided, however*, Respondents may take actions that the Acquirer has requested or agreed to in writing and that has been approved in advance by the Monitor (in consultation with Commission staff), in all cases to facilitate that Acquirer's acquisition of the Divestiture Assets and rights in the Divestiture Products and consistent with the purposes of the Orders.

## VI. Employees

**IT IS FURTHER ORDERED** that:

A. Until one year after the Divestiture Date, Respondents shall cooperate with and assist the Acquirer to evaluate independently and offer employment to the Relevant Employees.

B. Respondents shall:

1. No later than 10 days after a request from the Acquirer, provide to the Acquirer a list of all Relevant Employees and provide Employee Information for each;

2. No later than 10 days after a request from the Acquirer, provide the Acquirer an opportunity to meet individually and outside the presence or hearing of any employee or agent of Respondents with any of the Relevant Employees, and to make offers of employment to any of the Relevant Employees;

3. Remove any impediments within the control of Respondents that may deter Relevant Employees from accepting employment with the Acquirer including removal of any non-compete or confidentiality provisions of employment or other contracts with Respondents that may affect the ability or incentive of those individuals to be employed by the Acquirer, and shall not make any counteroffer to a Relevant Employee who receives an offer of employment from that Acquirer;

   *Provided, however*, that nothing in the Orders shall be construed to require Respondents to terminate the employment of any employee or prevent Respondents from continuing the employment of any employee;

4. Not interfere, directly or indirectly, with the hiring or employing by the Acquirer of any Relevant Employees, not offer any incentive to such employees to decline employment with the Acquirer, and not otherwise interfere with the recruitment of any Relevant Employees by the Acquirer;

5. Continue to provide Relevant Employees with all employee benefits offered by Respondents, including regularly scheduled or merit raises and bonuses, and regularly scheduled vesting of all benefits while they are employed by Respondents; and

6. Provide reasonable financial incentives for Relevant Employees to continue in their positions, and as may be necessary, to facilitate the employment of such Relevant Employees by the Acquirer.

C. Respondents shall not, for a period of one year following the Divestiture Date, directly or indirectly, solicit or otherwise attempt to induce any of the Relevant Employees who have accepted offers of employment with the Acquirer to terminate the employee's employment with the Acquirer;

*Provided, however*, Respondents may:

1. Hire an employee whose employment has been terminated by the Acquirer;

2. Advertise for employees in newspapers, trade publications, or other media, or engage recruiters to conduct general employee search activities, in either case not targeted specifically at one or more of Relevant Employees; and

3. Hire an employee who has applied for employment with Respondents, as long as such application was not solicited or induced in violation of this Section VI.

## VII. Confidentiality

**IT IS FURTHER ORDERED** that:

A. Respondents shall not (x) disclose (including to Respondents' employees) or (y) use for any reason or purpose, any Confidential Business Information received or maintained by

Respondents; *provided, however*, that Respondents may disclose or use such Confidential Business Information in the course of:

1. Performing their obligations or as permitted under the Orders or any Divestiture Agreement;
2. Complying with financial reporting requirements, obtaining legal advice, prosecuting or defending legal claims, investigations, or enforcing actions threatened or brought against the Divestiture Products, Divestiture Assets or Divestiture Product Businesses, or as required by law or regulation, including any applicable securities exchange rules or regulations.

B. If disclosure or use of any Confidential Business Information is permitted to Respondents' employees or to any other Person under this Section VII, Respondents shall limit such disclosure or use (1) only to the extent such information is required; (2) only to those employees or Persons who require such information for the purposes permitted under Paragraph VII A.; and (3) only after such employees or Persons have signed an agreement to maintain the confidentiality of such information.

C. Respondents shall enforce the terms of this Section VII and take necessary actions to ensure that their employees and other Persons comply with the terms of this Section VII, including implementing access and data controls, training their employees, and other actions that Respondents would take to protect their own trade secrets and proprietary information.

## VIII. Monitor

**IT IS FURTHER ORDERED** that:

A. The Commission appoints Quantic Regulatory Services LLC as Monitor to observe and report on Respondents' compliance with their obligations as set forth in the Orders.

B. Respondents and the Monitor may enter into an agreement relating to the Monitor's services. Any such agreement:

1. Shall be subject to the approval of the Commission;
2. Shall not limit, and the signatories shall not construe it to limit, the terms of this Section VIII or the Section relating to the Monitor in the Order to Maintain Assets ("Monitor Sections") and to the extent any provision in the agreement varies from or conflicts with any provision in the Monitor Sections, Respondents and the Monitor shall comply with the Monitor Sections; and
3. Shall include a provision stating that the agreement does not limit, and the signatories shall not construe it to limit, the terms of the Orders in this matter, and to the extent any provision in the agreement varies from or conflicts with any provision in the Orders, Respondents and the Monitor shall comply with the Orders.

C. The Monitor shall:

1. Have the authority to monitor Respondents' compliance with the obligations set forth in the Orders;
2. Act in consultation with the Commission or its staff;
3. Serve as an independent third party and not as an employee, or agent of the Respondents or of the Commission;
4. Serve without bond or other security;
5. At the Monitor's option, employ such consultants, accountants, attorneys, and other representatives and assistants as are reasonably necessary to carry out the Monitor's duties and responsibilities;
6. Enter into a non-disclosure or other confidentiality agreement with the Commission related to Commission materials and information received in connection with the performance of the Monitor's duties and require that each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants shall enter into a non-disclosure or other confidentiality agreement with the Commission;
7. Notify staff of the Commission, in writing, no later than 5 days in advance of entering into any arrangement that creates a conflict of interest, or the appearance of a conflict of interest, including a financial, professional, or personal conflict. If the Monitor becomes aware of such a conflict only after it has arisen, the Monitor shall notify the Commission as soon as the Monitor becomes aware of the conflict;
8. Report in writing to the Commission concerning Respondents' compliance with this Order on a schedule as determined by Commission staff and at any other time requested by the staff of the Commission; and
9. Unless the Commission or its staff determine otherwise, the Monitor shall serve until Commission staff determines that Respondents have satisfied all obligations under Sections II, IV, and V, and files a final report.

D. Respondents shall:

1. Cooperate with and assist the Monitor in performing the Monitor's duties for the purpose of reviewing Respondents' compliance with their obligations under the Orders, including as requested by the Monitor, (a) providing the Monitor full and complete access to personnel, information, and facilities; and (b) making such arrangements with third parties to facilitate access by the Monitor;
2. Not interfere with the ability of the Monitor to perform the Monitor's duties pursuant to the Orders;
3. Pay the Monitor's fees and expenses as set forth in an agreement approved by the Commission, or if such agreement has not been approved, pay the Monitor's customary fees, as well as expenses the Monitor incurs performing the Monitor's duties under the Orders, including expenses of any consultants, accountants, attorneys, and other representatives and assistants that are reasonably necessary to assist the Monitor in carrying out the Monitor's duties and responsibilities;

4. Not require the Monitor to disclose to Respondents the substance of the Monitor's communications with the Commission or any other Person or the substance of written reports submitted to the Commission pursuant to the Orders; and

5. Indemnify and hold the Monitor harmless against any loss, claim, damage, liability, and expense (including attorneys' fees and out of pocket costs) that arises out of, or is connected with, a claim concerning the performance of the Monitor's duties under the Orders, unless the loss, claim, damage, liability, or expense results from gross negligence or willful misconduct by the Monitor.

E. Respondents may require the Monitor and each of the Monitor's consultants, accountants, attorneys, and other representatives and assistants to enter into a customary confidentiality agreement provided that such agreement does not restrict the Monitor's ability to access personnel, information, and facilities or provide information to the Commission, or otherwise observe and report on the Respondents' compliance with the Orders.

F. If the Monitor resigns or the Commission determines that the Monitor has ceased to act, has failed to act diligently, or is otherwise unable to continue serving as a Monitor due to the existence of a conflict or other reasons, the Commission may appoint a substitute Monitor. The substitute Monitor shall be afforded all rights, powers, and authorities and shall be subject to all obligations of the Monitor Sections of the Orders. The Commission shall select the substitute Monitor, subject to the consent of the Respondents. Respondents:

1. Shall not unreasonably withhold consent to the appointment of the selected substitute Monitor;

2. Shall be deemed to have consented to the selection of the proposed substitute Monitor if, within 10 days of notice by staff of the Commission of the identity of the proposed substitute Monitor, Respondents have not opposed in writing, including the reasons for opposing, the selection of the proposed substitute Monitor; and

3. May enter into an agreement with the substitute Monitor relating to the substitute Monitor's services that either (a) contains substantially the same terms as the Commission-approved agreement referenced in Paragraph VIII B; or (b) receives Commission approval.

G. The Commission may on its own initiative or at the request of a Monitor issue such additional orders or directions as may be necessary or appropriate to assure compliance with the requirements of the Orders.

## IX. Divestiture Trustee

**IT IS FURTHER ORDERED** that:

A. If the Respondents have not fully complied with the obligations to assign, grant, license, divest, transfer, deliver, or otherwise convey the Divestiture Assets or the rights to the

Divestiture Products as required by this Order, the Commission may appoint a trustee ("Divestiture Trustee") to assign, grant, license, divest, transfer, deliver, or otherwise convey these assets in a manner that satisfies the requirements of this Order. In the event that the Commission or the Attorney General brings an action pursuant to § 5(*l*) of the Federal Trade Commission Act, 15 U.S.C. § 45(*l*), or any other statute enforced by the Commission, Respondents shall consent to the appointment of a Divestiture Trustee in such action to assign, grant, license, divest, transfer, deliver, or otherwise convey these assets. Neither the appointment of a Divestiture Trustee nor a decision not to appoint a Divestiture Trustee under this Section IX shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a courtappointed Divestiture Trustee, pursuant to § 5(*l*) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by a Respondent to comply with the Orders.

B. The Commission shall select the Divestiture Trustee, subject to the consent of Respondents, which consent shall not be unreasonably withheld. The Divestiture Trustee shall be a Person with experience and expertise in acquisitions and divestitures. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed Divestiture Trustee within 10 days after notice by the staff of the Commission to Respondents of the identity of any proposed Divestiture Trustee, Respondents shall be deemed to have consented to the selection of the proposed Divestiture Trustee.

C. No later than 10 days after the appointment of a Divestiture Trustee, Respondents shall execute a trust agreement that, subject to the prior approval of the Commission, transfers to the Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to effect the divestiture required by this Order. Any failure by Respondents to comply with a trust agreement approved by the Commission shall be a violation of this Order.

D. If a Divestiture Trustee is appointed by the Commission or a court pursuant to this Section IX, Respondents shall consent to the following terms and conditions regarding the Divestiture Trustee's powers, duties, authority, and responsibilities:

1. Subject to the prior approval of the Commission, the Divestiture Trustee shall have the exclusive power and authority to assign, grant, license, divest, transfer, deliver, or otherwise convey the assets that are required by this Order to be assigned, granted, licensed, divested, transferred, delivered, or otherwise conveyed.

2. The Divestiture Trustee shall have one year after the date the Commission approves the trust agreement described herein to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the one- year period, the Divestiture Trustee has submitted a plan of divestiture or the Commission believes that the divestiture(s) can be achieved within a reasonable time, the divestiture period may be extended by the Commission;

   *Provided, however*, the Commission may extend the divestiture period only 2 times.

3. Subject to any demonstrated legally recognized privilege, the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities related to the relevant assets that are required to be assigned, granted, licensed, divested, delivered, or otherwise conveyed by this Order and to any other relevant information as the Divestiture Trustee may request. Respondents shall develop such financial or other information as the Divestiture Trustee may request and shall cooperate with the Divestiture Trustee. Respondents shall take no action to interfere with or impede the Divestiture Trustee's accomplishment of the divestitures. Any delays in divestiture caused by a Respondent shall extend the time for divestiture under this Section IX in an amount equal to the delay, as determined by the Commission or, for a court appointed Divestiture Trustee, by the court.

4. The Divestiture Trustee shall use commercially reasonable efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondents' absolute and unconditional obligation to divest expeditiously and at no minimum price. The divestiture(s) shall be made in the manner and to the Acquirer that receives the prior approval of the Commission as required by this Order;

   *Provided, however*, if the Divestiture Trustee receives bona fide offers from more than one acquiring Person, and if the Commission determines to approve more than one such acquiring Person, the Divestiture Trustee shall divest to the acquiring Person selected by Respondents from among those approved by the Commission;

   *Provided further, however*, that Respondents shall select such Person within 5 days after receiving notification of the Commission's approval.

5. The Divestiture Trustee shall serve, without bond or other security, at the cost and expense of Respondents, on such reasonable and customary terms and conditions as the Commission or a court may set. The Divestiture Trustee shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the Divestiture Trustee's duties and responsibilities. The Divestiture Trustee shall account for all monies derived from the divestiture and all expenses incurred. After approval by the Commission of the account of the Divestiture Trustee, including fees for the Divestiture Trustee's services, all remaining monies shall be paid at the direction of Respondents, and the Divestiture Trustee's power shall be terminated. The compensation of the Divestiture Trustee shall be based at least in significant part on a commission arrangement contingent on the divestiture of all of the relevant assets that are required to be divested by this Order.

6. Respondents shall indemnify the Divestiture Trustee and hold the Divestiture Trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the Divestiture Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of, any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result

from gross negligence or willful misconduct by the Divestiture Trustee.

7. The Divestiture Trustee shall have no obligation or authority to operate or maintain the relevant assets required to be divested by this Order.

8. The Divestiture Trustee shall report in writing to Respondents and to the Commission every 30 days concerning the Divestiture Trustee's efforts to accomplish the divestiture.

9. Respondents may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to sign a customary confidentiality agreement;

   *Provided, however,* that such agreement shall not restrict the Divestiture Trustee from providing any information to the Commission.

E. The Commission may, among other things, require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, attorneys, and other representatives and assistants to enter into a non-disclosure or other confidentiality agreement with the Commission related to Commission materials and information received in connection with the performance of the Divestiture Trustee's duties.

F. If the Commission determines that a Divestiture Trustee has ceased to act or failed to act diligently, the Commission may appoint a substitute Divestiture Trustee in the same manner as provided in this Section IX.

G. The Commission or, in the case of a court-appointed Divestiture Trustee, the court, may on its own initiative or at the request of the Divestiture Trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture(s) required by this Order.

## X. No Reacquisition

**IT IS FURTHER ORDERED** that for a period of 10 years from the date this Order is issued, Respondents shall not, acquire directly or indirectly, through subsidiaries or otherwise, any leasehold, ownership interest, or any other interest, in whole or in part, any of the Divestiture Products.

## XI. Compliance Reports

**IT IS FURTHER ORDERED** that:

A. Respondents shall:

1. Notify Commission staff via email at bccompliance@ftc.gov of the Acquisition Date and the Divestiture Date no later than 5 days after the occurrence of each; and

2. Submit the Divestiture Agreements to the Commission at ElectronicFilings@ftc.gov and bccompliance@ftc.gov no later than 30 days after the Divestiture Date.

B. Respondents shall file verified written reports ("Compliance Reports") in accordance

with the following:

1. Respondents shall submit:
    1. Interim Compliance Reports 30 days after this Order is issued, and every 90 days thereafter until Respondents have complied fully with Section II of this Order and the Acquirer is FDA approved to manufacture each of the Divestiture Products at a facility that is not owned or controlled by Respondents;
    2. Annual Compliance Reports one year after the date this Order is issued, and annually thereafter for the next 9 years on the anniversary of that date; and
    3. Additional Compliance Reports as the Commission or its staff may request.
2. Each Respondent's Compliance Report shall contain sufficient information and documentation to enable the Commission to determine independently whether the Respondents are in compliance with the Order. Conclusory statements that the Respondents have complied with their obligations under the Order is insufficient. Respondents shall include in their Compliance Reports, among other information or documentation that may be necessary to demonstrate compliance, a full description of the measures Respondents have implemented or plan to implement to ensure that they have complied or will comply with each Section of this Order, and:
    1. A detailed description of the transfer of the Product Manufacturing Technology related to the Acquirer and progress toward the manufacturing of these products at a facility that is not owned or controlled by Respondents; and
    2. A detailed description of the timing for the completion of such obligations.
3. For a period of 5 years after filing a Compliance Report, each Respondent shall retain all material written communications with each party identified in the Compliance Report and all non-privileged internal memoranda, reports, and recommendations concerning fulfilling Respondent's obligations under the Orders and provide copies of these documents to Commission staff upon request.

C. Respondents shall verify each Compliance Report in the manner set forth in 28 U.S.C. § 1746 by the Chief Executive Officer or another officer or employee specifically authorized to perform this function. Respondent shall file its compliance reports with the Secretary of the Commission at ElectronicFilings@ftc.gov and the Compliance Division at bccompliance@ftc.gov, as required by Commission Rule 2.41(a), 16 C.F.R. § 2.41(a). In addition, Respondent shall provide a copy of each compliance report to the Monitor if the Commission has appointed one in this matter.

## XII. Change in Respondents

**IT IS FURTHER ORDERED** that Respondents shall notify the Commission at least 30

days prior to:

A. The proposed dissolution of Aurobindo Pharma Limited and Aurobindo Pharma USA, Inc.;

B. The proposed acquisition, merger, or consolidation of Aurobindo Pharma Limited and Aurobindo Pharma USA, Inc. ; or

C. Any other change in Respondents including, assignment and the creation, sale, or dissolution of subsidiaries, if such change might affect compliance obligations arising out of this Order.

## XIII. Access

**IT IS FURTHER ORDERED** that, for purposes of determining or securing compliance with the Orders, subject to any legally recognized privilege, upon written request, and upon 5 days' notice to a Respondent made to its principal United States offices, registered office of its United States subsidiary, or its headquarters address, that each Respondent shall, without restraint or interference, permit any duly authorized representative of the Commission:

A. Access, during business office hours of Respondents and in the presence of counsel, to all facilities and access to inspect and copy all business and other records and all documentary material and electronically stored information as defined in Commission Rules 2.7(a)(1) and (2), 16 C.F.R. § 2.7(a)(1) and (2), in the possession or under the control of Respondents related to compliance with this Order, which copying services shall be provided by Respondents at the request of the authorized representative of the Commission and at the expense of Respondents; and

B. To interview officers, directors, or employees of Respondents, who may have counsel present, regarding such matters.

## XIV. Purpose

**IT IS FURTHER ORDERED** that the purpose of this Order is to remedy in a timely and sufficient manner the lessening of competition as alleged in the Commission's Complaint by:

A. Ensuring that the Acquirer can continue to use the Divestiture Assets and rights in the Divestiture Products granted pursuant to this Order for the purposes of each of the respective Divestiture Product Businesses within the United States; and

B. Creating a viable and effective competitor in the respective Divestiture Product Businesses within the United States.

## XV. Term

**IT IS FURTHER ORDERED** that this Order shall terminate 10 years from the date it is issued.

By the Commission.

April J. Tabor
Secretary

SEAL

ISSUED:

**NONPUBLIC APPENDIX I**
**DIVESTITURE AGREEMENTS**

**[cover page]**

**NONPUBLIC APPENDIX II**
**MONITOR COMPENSATION**

**[cover page]**

**PUBLIC APPENDIX**
**MONITOR AGREEMENT**

**[cover page]**